

COMPETITIVE SOURCING (A-76)



Tom Upton
HQMC (LR)
(703) 614-4760/2644
uptonth@hqmc.usmc.mil

**May 17,
2004**

Competitive Sourcing

- Competitive Sourcing is the process of determining the most cost effective provider, either public or private, for commercial services.
- Competition rules are set by Office of Management and Budget (OMB) Circular A-76 and various statutes.
- A-76 compares the in-house Most Efficient Organization (MEO) against a private sector offer on the requirements detailed in the Performance Work Statement (PWS).

WHY COMPETITION?

- Competition drives efficiencies
 - Historically 30% savings (validated by current studies)
 - Major administrative emphasis
 - High interest item with SECDEF and SECNAV
- Other Benefits
 - Frees other resources (manpower)
 - Brings discipline to the business unit
 - Defines and tracks performance
 - Any changes are cost based
 - Labor not applied to Ill-defined or unfunded requirements
- It's required

A-76 History

- Government program since 1930's
 - Rely on private sector for commercial services
 - Retain Government functions in-house
- Executive Directives since 1955
 - 1965: First OMB Circular A-76
- Extensive revisions by Carter, Reagan, Clinton, and Bush Administrations
 - 1996 rewrite
 - 2003 rewrite¹
- Trend is increased emphasis Government-wide

¹ www.whitehouse.gov/omb/circulars/a076/

2002 President's Mgmt Agenda¹

- Targets opportunities to improve performance
- Five Gov-wide initiatives
 - Strategic Management of Human Capital
 - Improved Financial Performance
 - Expanded Electronic Government
 - Budget & Performance Integration
 - **Competitive Sourcing**
 - Compete 15% FY00 FAIR Inventory by FY03
 - Compete 50% FY00 FAIR Inventory by FY08
- **USMC Goals (MID-907)**
 - FY00 FAIR Inventory = 13,200
 - USMC already competed 4100 FTEs = 31% FAIR
 - GOAL = **Compete 3k FTEs by FY09** (18Apr03 SECNAV Memo)

¹<http://www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf>

Competitive Sourcing Working Group (CSWG)

- ACMC chartered/DC I&L Chair
 - Membership from HQMC, Intermediate Cmd, and Key Installation personnel
- Goals
 - Develop USMC-wide competitive sourcing plan using core/non-core concepts.
 - Recommend process improvements that builds experience and resolves conflicts of interest.
 - Realign Marines back to Operating Forces where feasible.

CSWG Approach

- Use core concepts to review manpower mix
- Define core functions/processes
- Define non-core, commercial processes
- Assess risks
- Identify competition/conversion candidates

COA2 Competition

Candidates

I&L Processes: (3,905 FTEs)

- Supply Services (1,684)
 - Retail Supply Ops/DSSCs (1,053)
 - Storage & Warehousing (283)
 - Fuels Storage & Dist (235)
 - Military Clothing (113)
- Transportation (693)
- Laundry Services (29)
- Utilities (282)
- Base Ops & Facilities O&M (recompetitions) (1,217)

FTE = full time equivalent = one full time workyear.

All Other Processes:

- Telephone Systems (C4)
 - 249 FTEs
- EAP Maint (MCCDC)
 - 40 FTEs

Each COA includes different mix/numbers of candidates. Total number of Marines in all these processes is about 1,200.

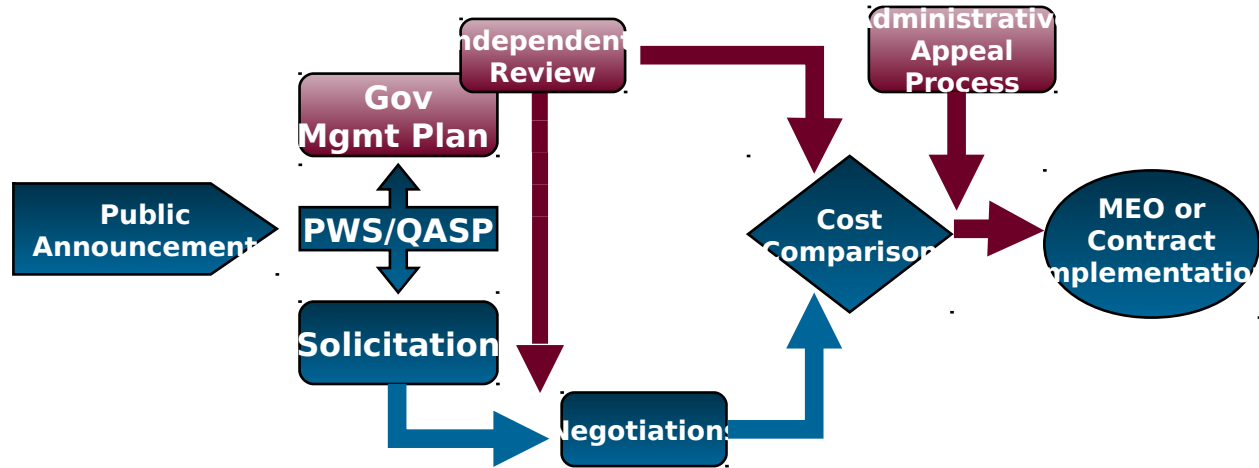
A-76 Revision¹

- Outcome of GAO CA Panel
- Major Changes:
 - More FAR-like
 - MEO treated as private sector offeror.
 - ✓ Letter of Obligation (LOO)
 - Single source selection process for both government and private-sector bids.
 - No Independent Review.
 - ✓ Contracting Officer responsible for evaluating all proposals.
 - Compressed Timeline (12 months)
 - Initial data gathering allowed before clock starts
 - No Direct Conversions
 - Streamlined Competitions
 - No Administrative Appeal
 - Agency Protests allowed

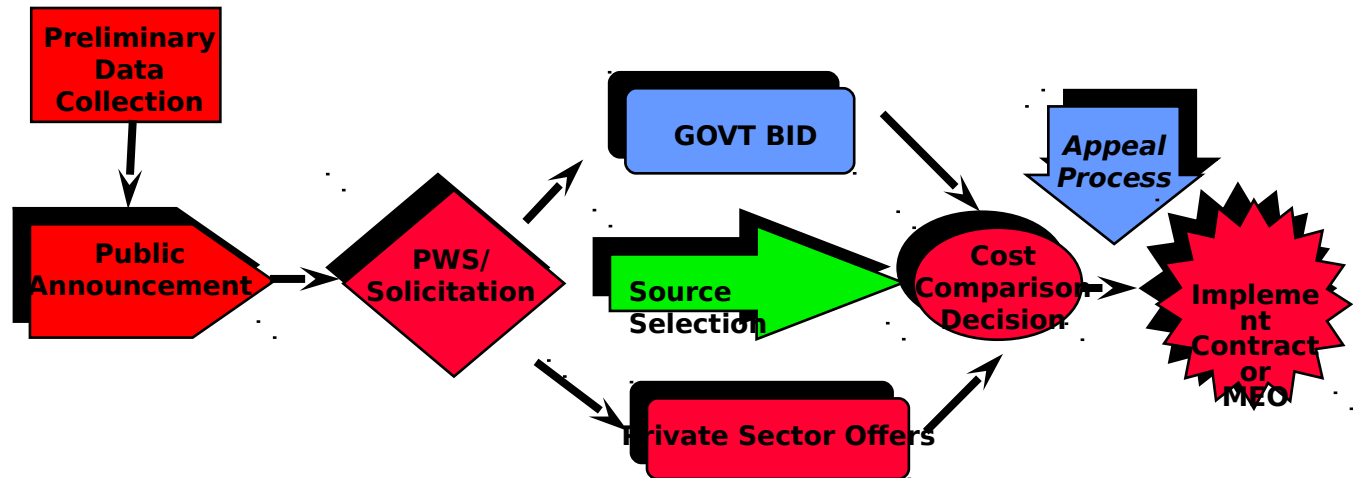
¹www.whitehouse.gov/omb/circulars/a076/

Process Differences

Current



Revised



A-76 Revision

(New Terminology)

Old Term	New Term
In-House Performance	Agency Performance
In-House Offer	Agency Tender
IHCE	Agency Cost Estimate
MEO Certifying Official	Agency Tender Official
Cost Comparison Waiver	Competition Waiver
ISSA	Public Reimbursable
Cost Comparison	Standard Competition
Cost Comparison Form (CCF)	Standard Competition Form

Competition Officials

■ **Competitive Sourcing Official (CSO)**

- Responsible for the implementation of this circular within the agency.

■ **Agency Tender Official (ATO)**

- Responsible for the agency tender and represents the agency tender during source selection.

■ **Performance Work Statement (PWS) Team Lead**

- Responsible for developing the agency's technical, functional, and performance requirements listed in the solicitation.

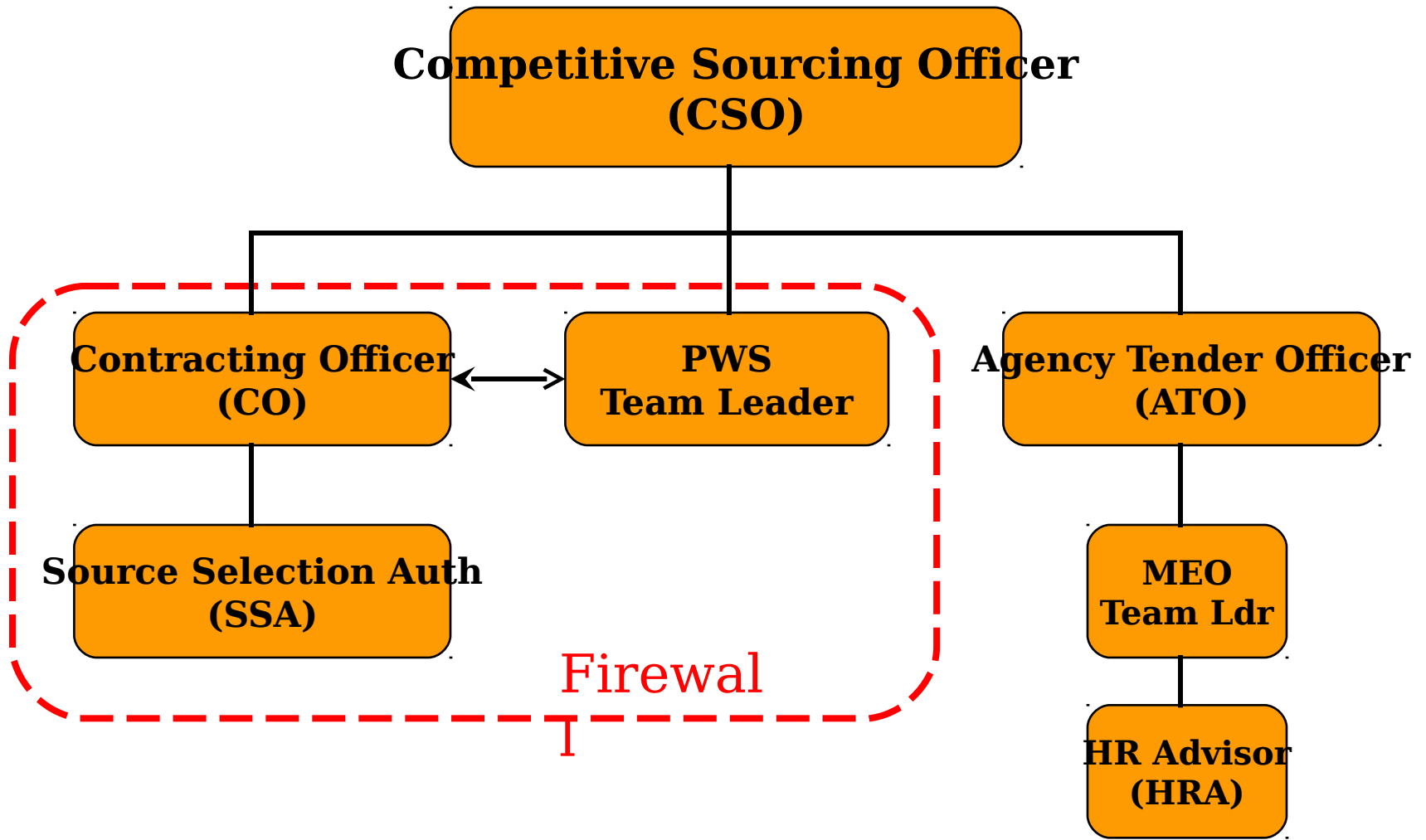
■ **Contracting Officer (CO)**

■ **Human Resources Advisor (HRA)**

- Employee and labor-relations requirements
- MEO team requirements

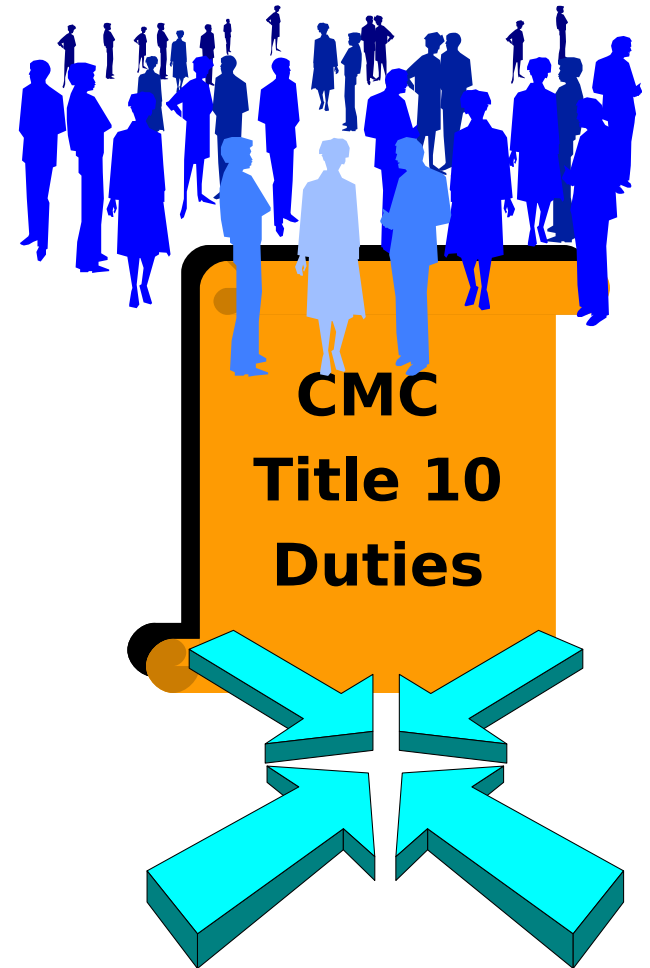
■ **Source Selection Authority (SSA)**

A-76 Firewalls



Challenges

- MID-907 target
 - +3k FTEs to compete
- Work force composition
 - Military requirement in the SE?
 - Sea-Shore Rotation
 - Career Progression
 - Combat Augmentation
 - Low civilian to military ratio
- Maintain Mission
- A-76
 - Adversarial
 - Time consuming
 - New rules



Lessons Learned: Management

What's Needed to Succeed

■ **STRONG LEADERSHIP!!**

- Vision-Commitment-Incentives-Communication
- Can't rule by committee
- Top Priority

■ **Resources**

- Personnel
- Dollars
 - Consultant Support
 - Training
 - Software
 - Independent Reviews
 - RIF Costs
 - Post implementation audits

Lessons Learned: ***Management***

What's Needed to Succeed

- **Clear understanding of core competencies**
 - What's competable?
 - Packaging - should reflect marketplace.
- **Staffing**
 - Dedicated Staff
 - Support from Key Players
 - HR
 - Contracts
 - Legal
- **"Win" at any cost is not a win**

Lessons Learned: ***Acquisition***

What's Needed to Succeed

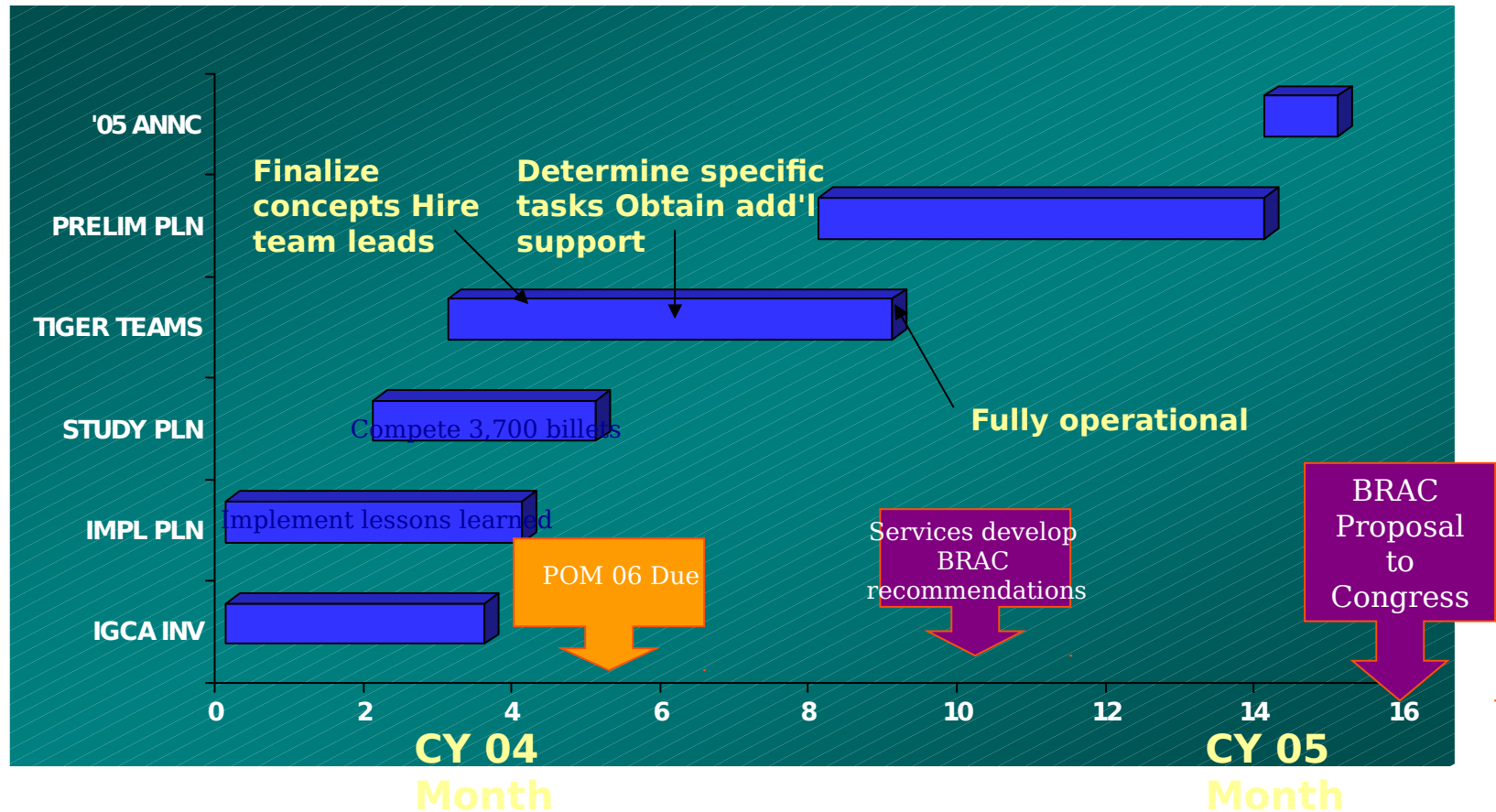
■ **Contracting**

- Communication between KO & Functional Mgrs
- Communication between KO & Offerors

■ **Solicitation**

- Data is key
- Conflict of Interest
 - PWS/MEO development

FY05 Milestones



Useful Websites

- **OMB** (www.whitehouse.gov/omb)
 - A-76
- **GAO** (www.gao.gov)
 - Reports, Bid Protest Decisions, A-76 Panel
- **OSD AT&L** (<http://web.lmi.org/osd>)
 - A-76 Policy
 - Share A-76 & Handbooks
 - win.Compare
 - Inventory (incl/FAIR)
- **Navy** (<http://help.n4.hq.navy.mil>)
- **Marine Corps** (www.hqmc.usmc.mil/ilweb.nsf)

Back-Up

A-76 Update

- **Total Initiatives (27): 4,108** FTEs (2,990 civ, 1,118 mil)
 - Competitive Sourcing, Privatization and Divestiture.
- **Full A-76 Competitions (15): 3,374** FTEs (2,940 civ, 434 mil)
 - **Complete (13): 2,737** FTEs (2,393 civ, 343 mil)
 - In-house: Albany (Env), Albany (Facilities), Barstow, Yuma, Parris Island (Facilities & MoT), Quantico, Cherry Point, San Diego, 29 Palms, Hawaii, Pendleton
 - Contract: Beaufort
 - Estimated Savings (\$65.5 M/yr., 343 Marines returned)
 - **On-going (2): 638** FTEs (547 civ, 91 mil)
 - Lejeune, Henderson Hall
- **Direct Conversion Procedure (12): 734** FTEs (50 civ, 684 mil)
 - **Complete (12): 734** FTEs (50 civ, 684 mil)
 - 11 small studies (2 in-house) and Garrison Food Service (594 mil)
 - Estimated Savings (\$29.6 M/yr., 684 Marines returned)
- **Summary: \$95.1 Savings; 1,022** Marines returned

Inherently Governmental/ Commercial Activities (IGCA)

- Total Manpower ~~Accountability~~ *Inventory*
 - All Military & Civilian
 - All Inherently Governmental & Commercial Functions
 - Does not include NAF or contract workforces
- Codes Functions and Manpower Mix Criteria
- Yearly Requirement to OSD
 - Basis for Federal Activities Inventory Reform (FAIR) Act
 - OSD Guidance published November time-frame due back April following year

ORDER OF PRECEDENCE FOR CODING MANPOWER MIX CRITERIA

A		Military Operations	
B	Military Support Elements in Operating Forces	C	Civilian Support Elements in Operating Forces
D Exemptions for Military & Civilian Wartime Designations (Dual Status)			
E	Civilian Authority Direction & Control	F	Military-Unique Knowledge & Skills
G Exemptions for Esprit de Corps and Military Support			
H	Continuity of Infrastructure Operations	I	Military Augmentation of the Infrastructure During War
J	Civilian & Military Rotation	K	Civilian & Military Career Progression
L Restricted by Law, Executive Order, Treaty or International Agreement			
M Restricted by DoD Management Decision			
P Pending Restructuring Decision			
R Subject to Review			
W Nonpackageable Commercial Activity			
X Alternative Candidates to A-76			



Inherently
Governmental



Exempt



Reviewable

Military to Civilian
Conversion
Opportunity
(Civilianization)

Competiti
on
Opportuni
ty

USMC FY03 Inventory

Inherently Governmental

153k	Military Operations (A)	3k	Civilian Authority Direction & Control (E)
9k	Military Unique Knowledge & Skills (F)	2k	Mil Augmentation of Infrastructure During War (I)

167k

Exempt from Competition

0	Mil Support Elements in Operating Forces (B)	0	Civ Support Elements in Operating Forces (C)
4k	Mil & Civ Wartime Designations -Dual Status (D)	4k	Esprit de Corps & Military Support (G)
2k	Continuity of Infrastructure Operations (H)	1k	Civilian & Military Rotation (J)
3k	Civilian & Military Career Progression (K)	4k	Law, EO, Treaty, or International Agreement (L)
0	DoD Management Decision (M)		

18k

Subject to Competition

2k	Pending Restructuring Decision (P)
11k	Subject to Review (R)
0	Reviewable for Alternatives to A-76 (requires higher HQ approval) (X)
0	Nonpackageable Commercial Activity (W)

13k

CA Panel

- FY01 NDAA Requirement (Sec 832)
- Membership
 - GAO Chair
 - Government, union, private-sector, & think tank representation
- Findings (May '02)¹
 - Four major categories of recommendations
 - Adopt Federal sourcing policies and principals
 - Develop a FAR-like process
 - Incorporate limited changes to the A-76 cost comparison process
 - Promote High Performing Organizations

¹www.gao.gov/a76panel/index.html

Definitions...

■ **COMMERCIAL ACTIVITY (CA)**

An activity, either contracted or operated and managed by an activity, that provides a PRODUCT or SERVICE “obtainable” from a commercial source.

■ **COMPETITIVE SOURCING**

The process of obtaining a support service through either public or private resources, based on the best value of the provider, where the Government retains full responsibility and control over delivery of those services.

■ **INHERENTLY GOVERNMENTAL**

An activity that is so intimately related to the public interest as to mandate performance by Federal employees.

■ **OUTSOURCING / DIRECT CONVERSION**

The outsourcing process where an in-house service is transferred straight to contract accomplishment.

Definitions cont'd...

■ **PRIVATIZATION**

The process of changing a public entity or enterprise to private control and ownership.

■ **PERFORMANCE WORK STATEMENT (PWS)**

A statement of the technical, functional, and performance characteristics of the work that is being competed for under A-76.

■ **MOST EFFICIENT ORGANIZATION (MEO)**

The Government's most efficient in-house workforce organized to perform a commercial activity for competition under the A-76 process.

PWS Lead

- **MARFORs (and MCLC for Supply Chain Mgmt funcs)**
- **Responsibility:** Independent statement of requirements
 - Must account for customer mission
 - Improve consistency in service levels across USMC
- **Issues**
 - Funding - Charter
 - COE interface - RRB interface
 - Adequate information necessary to provide for customers needs
- **Proposed Composition** (*as needed basis)
 - **A-76 Program Mgr Specialist** - *SMEs - * Equip/Prop
 - **Spec Writer/PWS Specialist** - *ABC experts - * HR (labor research)
 - **Workload/Data Specialist** - *Customers
 - ***COE (incl legal supt)** - *Base PWS Coordinator

Agency Tender Official **(ATO)**

- **TBD** (nominated by chain of command, but can't be the Commanding Officer)
- **Responsibility:** responding to the solicitation
 - Nominated by the chain of command depending on the circumstances of the study
 - Improve consistency in service levels across USMC
- **Issues**
 - Peer Review (QC) - Regional/National study
 - Experience - LoO
- **Proposed Team Composition**
 - Program Mgr
 - SMEs - OGC
 - HR - Costing (COMPARE)
 - Proposal/Contract Specialist
 - Mgmt Analyst/BPR Specialist

Contracting Officer (CO)

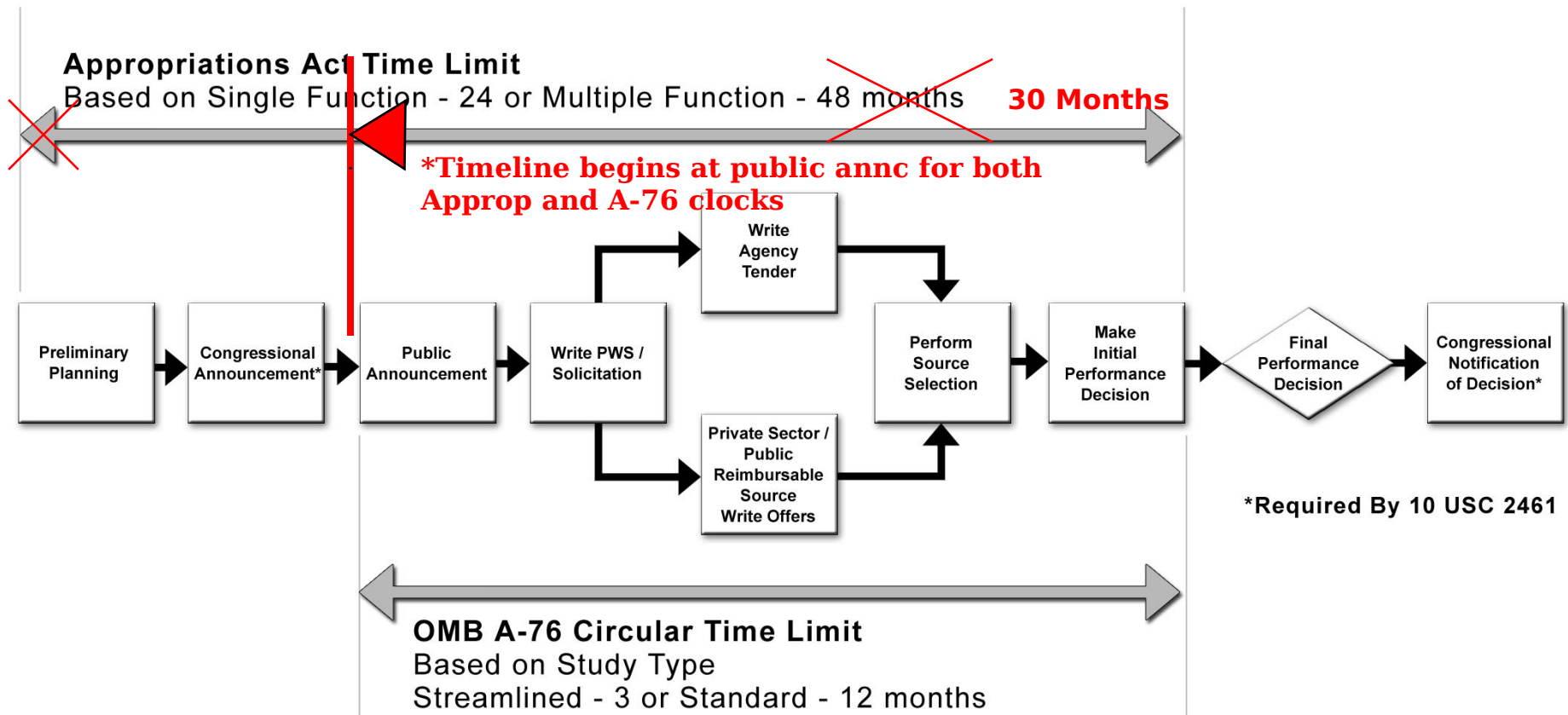
- **DON SSACOE**
- **Responsibility:** Procurement actions
- **Issues**
 - Interface w/ PWS team
 - Post award oversight (ACO)
 - Evaluation of ATO

Administrative Contracting Officer (ACO)

- **RCOs** (proposed)
- **Responsibility:** Post award administration for either contract or MEO
 - Responsible for ensuring the MEO/contract executes PWS IAW the IHCE per the QASP.
- **Issues**
 - QA responsibilities
 - Mission change/staffing/training
 - LoO

Competition Timelines

How Laws and Regulations Govern the Competitive Sourcing Process



Preliminary Planning: Schedule, Scope, Grouping

1. Start date of planning = Appropriations time limit start date. Will be tracked in CAMIS
2. Congressional Announcement
3. Public Announcement in FedBizOpps.gov = OMB Circular and 8022 Start Date

Agency Tender

- **Responds to Solicitation including:**
 - **Section L - instructions, conditions, and notices to offerors**
 - **Section M - evaluation factors**
- **Additional requirements and MEO (“agency’s staffing plan”)**
 - **Cost Estimate**
 - **Quality Control Plan**
 - **Phase-in plan**
 - **any existing MEO subcontracts**

Special Considerations

- Private sector not evaluated separately from agency
- No adjustment to tender allowed by Contracting Officer, SSA, or SSEB
- Contracting Officer corresponds with Agency Tender Official (ATO) in writing
- “Deficiencies notice” for offer or tender:
 - Contracting Officer determines time period to correct
 - if ATO is unable to correct offer, HQMC will determine if additional resources will assist AT to meet solicitation

Post Implementation **Accountability**

- **ACO will validate implementation of the Letter of Obligation or Contract:**
 - **Monitor all performance periods and actual costs in CAMIS**
 - **Implement decision and QASP**
 - **Maintain and update PWS currency**
 - **FAR subpart 42.15**
 - **Retain all documentation - FAR 4.8**

PWS Maintenance

- **Retain Original PWS**
- **Update PWS - reviewed as required at the end of each performance period**
 - **Mission Change**
 - **Scope Change**

Terminations

- **Notification**
- **Contracting Officer determines service provider has failed to perform and issues notification in accordance with FAR part 49**
- **Upon termination of MEO Letter of Obligation, agency will change inventory coding and perform a new competition**
- **Temporary remedies - interim contracts, Public reimbursement, or government personnel on an emergency basis no longer than one year**

Contests

- **Responsibility of Acquisition Centers of Excellence**
- **Streamlined Competitions - no contests**
- **Standard Competitions**
 - **report in CAMIS**
 - **“directly interested party”**
 - **cancellation of solicitation**
 - **determination to exclude an offer**
 - **performance decision including costing**
 - **termination or cancellation of a contract or letter of obligation**
- **FAR Part 33.103 - Agency Protests**

Follow-on Competition

- **Agency or Public Reimbursable Decisions:**
 - **streamlined or standard competition of activity required by end of the last Performance Period on Competition form**
- **CSO may grant 3 year exemption for a high performing organization**

OMB Authorities

- **Circular Deviations**

CSO Authorities (DUSD)

- Application during war
- Cancellation
- Time limit extension for standard comp's*
- Approve COA when no satisfactory commercial source*
- Use of Best Value*
- HPO approval
- Provider termination (other than for performance)*
- Maintain COMPARE, CAMIS, and SHARE A-76

* Requires OMB notification

Pending CCSO Authorities **(DoN)**

- Program oversight
- Congressional announcements
- Time limit waiver for streamlined comp's

Requested HQMC **Authorities**

- Appointment of competition officials
- Approve GFP
- Approve solicitation amendments
- Resolve SSA/ATO discrepancies

Legislative Req's (U.S.C. Title 10)

- **Sec. 114:** Prohibits contracting out R&D functions.
- **Sec. 2461:** Analysis required to convert in-house, commercial or industrial type functions to contract performance. Requires MEO certification, cost comparisons, & Congressional notification. Certifies contracting actions are not solely to avoid personnel ceilings. Also, requires system to monitor cost savings resulting from workforce reductions. Requires annual report to Congress on savings estimated and requires system for monitoring performance for each area subject to workforce review which is greater than 50 FTE.
- **Sec. 2462:** Contracting for certain supplies & services required when cost is lower. Allows contracting if costs are fair and all inclusive.

Legislative Req's (U.S.C. Title 10)

- **Sec 2463:** Collection of cost information data on converted functions. Requirement for CAMIS database.
- **Sec 2464:** Limits contracting core capability unless waived by SECDEF.
- **Sec 2465:** Limits contracting of firefighting & guard SVCS.
- **Sec's 2466 & 2469:** Limits contracting of depot maintenance functions to 50%.
- **Sec 2467:** Requirements with respect to retirement costs and consultation with employees. Requires monthly consultation with employees on PWS & MEO.
- **Sec 2475:** Requirement with respect to reporting any restructuring or reengineering of functions or activities which will result in a reduction effecting greater than 50 personnel.

Other Code Req's

- **Title 16, Sec. 670a 'Sikes Act':** A-76 does not apply to implementation and enforcement of natural resources policy.
- **Title 40, Sec 541 'Brooks Act' (Title 31, Sec 1105):** Sets limits and conditions concerning the contracting of architectural and engineering (A&E) services.
- **Title 41, Sec. 351 'Service Contract Act':**
When contracting for specific services, the Federal Government must pay minimum monetary wages to those service employees as determined by the Secretary of Labor. Specific requirements for fringes and working conditions are also specified.

Annual Legislation - Appropriation

■ **Sec 8014:**

Act

- MEO must be prepared for comparison purposes with certification to Congress prior to converting any function or activity effecting greater than 10 DoD civilian personnel.
- Also requires that 10% differential be applied to all DoD studies with over 10 Civilian FTE.
- Provision that waives 8014 clauses, plus majority of 10USC2461 for certain preferential groups incl native Alaskans. This provision only addresses noted statutes and does not address A-76 requirements.

■ **Sec 8022:** Requires that multi-function study must be performed within 30 months (**changed from 48 mo's in previous leg**) and single-function studies within 24 mos.

■ **Sec 8032:** Competition allowed for depot maintenance work, but A-76 does not apply.

Other Legislation

- **P.L. 105-270 "Federal Activities Inventory Reform (FAIR) Act":** Requires all executive agencies to submit to Congress an annual inventory of activities that are not inherently governmental, and to make this inventory available to the public. The FAIR Act defines all activities, that are not inherently governmental, as commercial activities and are to be included in this inventory.

Other Regulation

- **FAR 15.5:** Pre-award, award, and post-award notifications, protests and mistakes.
- **FAR 33.103:** Agency protest procedures.
- **FAR 33.104:** GAO protest procedures.
- **FAR 52.207-1 & 207-2:** Notice of cost comparison clauses (sealed bid and negotiated).
- **FAR 52.207-3:** Right of first refusal clause.